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Stafford Borough Council MORTGAGE ARREARS: YOUR OPTIONS YOUR RIGHTS

Customer Contact Centre

☞ 01785 619 000

Housing Options Team

Stafford Borough Council
Civic Centre, Riverside
Stafford ST16 3AQ

☞ Email

housingadvice@staffordbc.gov.uk

☞ Website

www.staffordbc.gov.uk



↘ Where can I turn for help?

National Debtline can offer confidential and expert advice over the telephone and/or a free self-help information pack called 'Dealing with your debts'.

Citizens Advice Bureau provide free, confidential and independent advice from over 3,000 locations throughout the UK

Advice is available face-to-face and by telephone. Most bureaux offer home visits and some also provide email advice.

CAB advice helps people resolve their debt, benefits, housing, legal, discrimination, employment, immigration, consumer and other problems and is available to everyone

The Benefits Agency may assist you with your mortgage interest payments paid directly to your lender. Contact the Benefits Agency to determine whether you are eligible for assistance with the mortgage interest payments if you are in receipt of Income Support or Job Seeker Allowance.

Bankruptcy Advisory Service offer independent help and advice at very minimal cost to anyone with debt or bankruptcy problems.

↘ Useful addresses and telephone numbers

Most of the services below are free of charge.

National Debtline	08080 084000
Citizens Advice Bureau	
131 North Walls, Stafford	01785 242 524
St Mary's Chambers, Station Road, Stone	01785 814 806
Stafford Borough Council Housing Options Team	
Civic Offices Riverside, Stafford, ST16 3AQ	01785 619 313
Stafford Debt Surgery	
Trinity Church on the first and last Wednesday of every month. Between 4.00pm and 6.00pm	
Bankruptcy Advisory Service	01482 630 34/5



The Possession Hearing

The purpose of a possession hearing is to decide on an arrangement, which is fair to both sides – not to find anyone guilty or innocent. You cannot be evicted from your home on the day of the hearing.

The hearing will take place before a district judge at the County Court. The judge will consider reasons for the arrears and want to know if the borrower can afford to pay off the arrears within a 'reasonable period'. You should attend the court hearing to verify your circumstances: you may choose to take a representative (e.g. someone from CAB). *Continued overleaf*

The judge will issue either:

- ↘ *A suspended possession order – you keep the property if you maintain a payment level agreed by the judge. If you keep to the payments, the mortgage lender can take no further action*
- ↘ *An outright possession order – you will lose possession of the property within a number of days*

Eviction (following an outright possession order only)

If an outright possession order is given, an eviction warrant will be passed to the bailiffs. The bailiffs will inform you in advance of a time and date of eviction to execute the warrant. On this date, bailiffs will arrive to remove you from the property (if you have not already left) and to change the locks. The space of time in between the court hearing and the eviction is usually a minimum of 28 days, but you may still be able to apply to the court to have the eviction suspended.

If you are evicted, your home will be sold to pay back the mortgage. If the sales does not meet the amount outstanding on your debt, you will still owe the balance to your lender. It will leave you in **negative equity**.

It is important that you leave your home in a good condition – this will make it easier to sell at a fair price.

Do not avoid seeking help because you think it is too late, even at the later stages listed above.



↘ Mortgage Arrears: Your Options and Rights

This leaflet is a basic guide to your options and rights regarding mortgage arrears. It provides details of the process involved for repossession of your property. Should you get into any difficulty with your mortgage payments, it is always advisable to act quickly and get professional legal advice.

↘ What can happen?

If you do not maintain your agreed mortgage payments (or payments on any other loan secured on your home) the lender will eventually repossess and sell the property to get their money back.

If you are having trouble paying your mortgage, you should contact:

- ↘ *Your lender (building society, bank, insurance company etc) straight away to explain your difficulty, and/or*
- ↘ *Citizens Advice Bureau (CAB), National Debtline or Bankruptcy Advisory Service*
- ↘ *Stafford Borough Council Housing Options Team (who provide a housing advice and homelessness service)*

The telephone numbers for the above are listed at the back of this booklet.

Seek help before arrears escalate: the longer you leave the problem, the harder it is to deal with.

↘ Resolving Payment Problems

You may wish to increase income by:

- ↘ *Letting out a room (some mortgage agreements require the lender's permission first). You will also need to check the welfare benefits and tax implications of this*
- ↘ *Establish whether you are entitled to any additional funds from the Benefits Agency*
- ↘ *Reducing non-priority debts to a minimum (contact the CAB for assistance. The Citizens Advice service helps people resolve their money, legal and other problems by providing free advice and information)*
- ↘ *Draw up a list of income and expenditure to highlight where expenditure could be reduced*



↘ Changing the method of repayment:

Capitalise the arrears – arrears are added to the remainder of the mortgage and repaid over the mortgage term.

Scheduled payment of arrears – an agreed amount is paid extra over a certain period of time.

Extending the repayment – only applicable for a capital repayment mortgage, but it can be extended for up to 10 years.

Interest only payments – only applicable for a capital repayment mortgage, it lowers the amount, but it takes longer to clear the debt.

Convert to a capital repayment mortgage – from an endowment, which may be cheaper.

Endowment policies cashed in – may need the lenders permission. Seek advice regarding this option.

You will need to contact your mortgage lender to discuss whether the above options are suitable for you.

↘ Voluntary Sale

Seek advice from Stafford Borough Council's Housing Options Team before you pursue this option. There are several issues, which you will need to consider:

- ↘ *If the amount owed on the mortgage is more than the property is worth, you will be left with 'negative equity'; - i.e. you will still owe your mortgage lender money despite no longer having possession of the property.*
- ↘ *If you sell your house and then apply to Stafford Borough Council's Housing Options Team (or any local authority) as homeless you may be deemed to have become 'intentionally homeless' – i.e. you will have voluntarily left your last fixed address. This will affect the way that your application is dealt with.*
- ↘ *It is not advisable to hand back the keys before the lender has obtained a possession order and you have somewhere else to live.*

↘ Court Action

You cannot be evicted from your property without a court order.

The sequence of events from the first missed payment through to eviction is detailed below. **Remember – seek assistance at the earliest possible stage.**

Standard arrears letter

Sent after the first or second missed payment inviting the borrower to bring the account up to date and to call and discuss the problem.

Strongly worded arrears letter

Sent usually after two months advising the above or the case will be passed to the lender's solicitor.

Notification of a County Court Possession Hearing Date (also known as a Possession Summons)

If you have not reached an agreement with your lender, they will apply to the county court asking them to decide what should happen with your property. This does not mean that you will automatically lose your home. There will be a reply form with the court papers for you to supply details to be considered by the court.

You will need to detail:

- ↘ *Reasons for the arrears*
- ↘ *Details about your family*
- ↘ *A detailed household budget, showing your regular income and expenditure*
- ↘ *Your offer to clear the arrears, including any notes made regarding telephone calls and/or written correspondence. This must be specific and practical.*